

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.L.P.No. 616 of 2006()

CC.959/2004 of JUDICIAL FIRST CLASS MAGISTRATE COURT,MUVATUPUZHA
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PETITIONER/COMPLAINANT:

M.D.JOSE, KOTTARATHIL HOUSE,
PUTHUPPADY, KOTHAMANGALAM TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.MATHEWS K.PHILIP

RESPONDENTS/ACCUSED & STATE:

1. E.B.JALALUDHEEN, S/O.BAVA,
EZHUTHANICKATTU, MANARY P.O.,
PAIPRA, MUVATTUPUZHA.

2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. C.M.NAZAR -R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD
ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 616 OF 2006

Dated this the 22nd day of November, 2006

O R D E R

The petitioner is the complainant in C.C.No.959 of 2004 on the file of the Judicial First Class Magistrate's Court, Muvattupuzha. It is alleged in the complaint that the first respondent borrowed an amount of Rs.1,50,000/- from the petitioner and issued Ext.P1 cheque towards repayment of the said amount which when presented to the bank for encashment was dishonoured for want of sufficient funds in the account of the first respondent. After completing the legal formalities, the petitioner filed the complaint.

2. Before the court below, the complainant himself was examined as PW.1 and Exts.P1 to P6 were produced. On the side of the defence, the first respondent was examined as DW.1 and another witness was examined as DW.2 and Exts.D1 to D4(a) were produced.

3. The case set up by the first respondent was that he had not issued any cheque to the petitioner. According to him, he had an account with one Venad Finance, Muvattupuzha and while taking some amount from

Venad Finance in connection with a chitty, he had given Ext.P1 cheque in the year 1996. During the relevant period, the petitioner was working as Managing Director of Venad Finance and subsequently the said Venad Finance was closed and the petitioner misused the cheque given by the first respondent. DW.2 who was a partner of Venad Finances also stated before the court below that the petitioner was working as Managing Director of Venad Finance and the first respondent had financial transactions with Venad Finance.

4. The court below considered the entire evidence adduced by either side and found that the case put forward by the first respondent was more probable and that the petitioner failed to prove that the cheque in question was issued by the first respondent in discharge of a liability. Considering the facts and circumstances of the case, this Court is of the view that the impugned judgment requires no interference.

Leave to appeal is rejected.

(K.THANKAPPAN, JUDGE)

sp/

